



Rce/1600

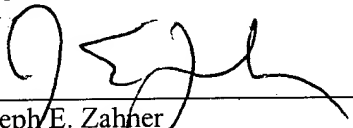
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THE UNITED STATES PATENT AND TRADEMARK OFFICE

St. Louis, Missouri  
January 2, 2002

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited in the United States Postal Service as first class mail in an envelope addressed to: BOX RCE, Assistant Commissioner for Patents, P.O. Box 2327, Arlington, VA 22202 on January 3, 2002.

  
\_\_\_\_\_  
Joseph E. Zahner  
Reg. No. 48,224  
7733 Forsyth Boulevard  
Suite 1400  
St. Louis, Missouri 63105  
(314) 727-5188

|  |   |                           |
|--|---|---------------------------|
| In re application of:                          | : |                           |
| Wold et al.                                    | : |                           |
| Serial No.: 09/351,778                         | : | Examiner Peter Brunovskis |
| Filed: July 12, 1999                           | : | Group Art Unit 1632       |
| For: Replication-Competent Anti-Cancer Vectors | : |                           |

BOX RCE  
Assistant Commissioner for Patents  
P.O. Box 2327  
Arlington, VA 22202

TRANSMITTAL LETTER

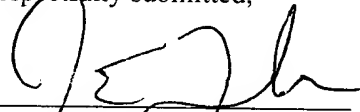
Enclosed please find:

1. Request for Continued Examination (RCE) under 37 C.F.R. 1.114 with a two-month extension;
2. Check in the amount of \$570.00;
3. Request for Continued Examination and Submission under 37 C.F.R. 1.116;

4. Declaration of Priority of Invention under 37 C.F.R. 1.131 signed by Dr. William Wold;
5. Exhibits A-E; and
6. Information Disclosure Statement Form 1449 with three (3) references.

It is believed that the above fee is correct. However, if this fee is incorrect, you are hereby authorized to charge any deficiencies or credit any overpayments to Deposit Account 18-1829. A duplicate copy of this letter is enclosed.

Respectfully submitted,



Joseph E. Zahner  
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Thompson Coburn  
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Suite 1400  
St. Louis, Missouri 63105  
(314) 727-5188

H18  
5-2-02  
P.2.

Practitioner's Docket No. 16153-7775

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re application of: Wold et al.

Application No.: 09 / 351,778 Group No.: 1632

Filed: July 12, 1999 Examiner: Peter Brunovskis

For: REPLICATION-COMPETENT ANTI-CANCER VECTORS

Assistant Commissioner for Patents  
Washington, D.C. 20231

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REQUEST FOR CONTINUED EXAMINATION (RCE)  
(37 C.F.R. 1.114)

1. Applicant hereby requests continued examination, in accordance with 37 C.F.R. § 1.114, for the above identified application.

**WARNING:** 35 U.S.C. 132(b) and § 1.114 provide for the continued examination of an application and not examination of a continuing application. Accordingly, the Office will not permit an applicant to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

**WARNING:** A continued examination request cannot be made if at least one office action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 161 has not been mailed. The provisions of 37 CFR 1.114 also do not apply (1) to a provisional application; (2) an application for a utility or plant patent filed under 35 U.S.C. 111(a) before June 8, 1995; (3) an international application filed under 35 U.S.C. 363 before June 8, 1995; (4) a patent under reexamination or (5) an application for a design patent. 37 CFR 1.114(d).

**CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\***

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 Arlington, VA 22202

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10\*

☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Addressee"

Mailing Label No. \_\_\_\_\_ (mandatory)

**TRANSMISSION**

☐ facsimile transmitted to the Patent and Trademark Office, (703) \_\_\_\_\_

Signature

Joseph E. Zahner

Date: 1-3-02

(type or print name of person certifying)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timelines. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Request for Continued Examination (RCE) (37 C.F.R. § 1.114) [9-64]—page 1 of 5)

01/11/2002 GTEFFERA 00000162 09351778

01 FC:279  
02 FC:216

370.00 OP  
200.00 OP

NOTE: There is no limit to the number of times the fee for continued examination may be submitted. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

NOTE: Unlike a continuation application, a continued examination request can utilize the mailing procedure of 37 CFR 1.8. See 37 CFR § 1.8(a)(2)(i)(A).

### TIME REQUEST IS BEING MADE

2. This request is being submitted (check appropriate item(s) below):

- i. ☒ Prior to abandonment of the application
- ii. ☐ Payment of the issue fee
  - ☐ Prior to payment of issue fee
  - ☐ Issue fee has been paid but a petition under § 1.313 has been granted
- iii. ☐ Prior to a decision on appeal to the Board of Patent Appeals & Interferences
  - ☐ A notice is being separately sent to the Board of Patent Appeals & Interferences that this Request for Continued Examination is being filed.

NOTE: If such a notice is not sent to the Board then may refuse to vacate a decision rendered after the filing of the RCE but before recognition by the Office of the RCE request under § 1.114.

- iv. ☐ Appeal to the U.S. Court of Appeals of the Federal Circuit under 35 U.S.C. 145 or ☐ Commencement of a civil action under 35 U.S.C. 146
  - ☐ Prior to the filing of such appeal or commencement of civil action
  - ☐ Such appeal or commencement of civil action has been terminated

### ENCLOSURES

3. Enclosed herewith is/are:

**WARNING:** If reply to a final or non-final Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111. 37 C.F.R. § 1.114(b).

- ☒ An information disclosure (37 C.F.R. § 1.98)
  - ☒ Form PTO-1449 (PTO/SB/08A and 08B)
- ☒ An amendment
- ☒ New arguments
- ☐ New evidence in support of patentability
- ☒ Other: Exhibits A-E

### FEE FOR REQUEST (37 C.F.R. § 1.17(e)).

4. This application is on behalf of:

- ☒ Small entity (and status is still as small entity) . . . . . \$370.00
- ☐ Other than a small entity . . . . . \$740.00

Continued Prosecution Request Fee \$ 370.00

## FEE FOR CLAIMS

NOTE: "The fee for continued examination under § 1.114 (§ 1.17(e)) does not include additional claims fee (cf. 1.53 (d)(3)(ii))." See Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

37 CFR 1.53(d)(3): "The filing fee for a continued prosecution application filed under this paragraph is:

(i) The basic filing fee as set forth in § 1.16; and

Any additional § 1.16 fee due based on the number of claims remaining in the application after entry of any amendment accompanying the request for an application under this paragraph and entry of any amendments under § 1.116 unentered in the prior application which applicant has requested to be entered in the continued prosecution application."

5. The fee for claims (37 C.F.R. § 1.16(b)-(d)) has been calculated as shown below:

| (Col. 1)   |    | (Col. 2)                        |    | (Col. 3)      |   | SMALL ENTITY        |      | OTHER THAN A SMALL ENTITY |    |
|--|----|---------------------------------|----|---------------|---|---------------------|------|---------------------------|----|
| CLAIMS REMAINING AFTER AMENDMENT                                   |    | HIGHEST NO. PREVIOUSLY PAID FOR |    | PRESENT EXTRA |   | ADDIT. RATE FEE     |      | OR RATE ADDIT. FEE        |    |
| TOTAL  | 16 | MINUS                           | 27 | =             | 0 | x\$9=               | \$ 0 | x\$18=                    | \$ |
| INDEP.   | 3  | MINUS                           | 3  | =             | 0 | x\$42=              | \$ 0 | x\$84=                    | \$ |
| <input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEP. CLAIM |    |                                 |    |               |   | + \$140=            |      | + \$280=                  |    |
|  |    |                                 |    |               |   | TOTAL ADDIT. FEE \$ |      | OR TOTAL ADDIT. FEE \$    |    |

\* If the entry in Col. 1 is less than entry in Col. 2, write "0" in Col. 3.

\*\* If the "Highest No. Previously Paid for" IN THIS SPACE is less than 20, enter "20."

\*\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3."

The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

**WARNING:** See 37 C.F.R. § 1.116.

(complete (a) or (b), as applicable)

(a) ☒ No additional fee is required.

OR

(b) ☐ Total additional fee required is \$ \_\_\_\_\_

## EXTENSION OF TIME

(If an extension of time is appropriate complete (a) or (b), as applicable)

6. The proceedings herein are for a patent application, and the provisions of 37 C.F.R. § 1.136(a) apply.

NOTE: 37 C.F.R. § 1.704(b) ". . . an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

- (a) ☒ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a)(1)-(4), for the total number of months checked below:

| Extension for<br>(months)                      | Fee for other than<br>small entity | Fee for<br>small entity |
|--|------------------------------------|-------------------------|
| <input type="checkbox"/> one month             | \$ 110.00                          | \$ 55.00                |
| <input checked="" type="checkbox"/> two months | \$ 400.00                          | \$ 200.00               |
| <input type="checkbox"/> three months          | \$ 920.00                          | \$ 460.00               |
| <input type="checkbox"/> four months           | \$ 1,440.00                        | \$ 720.00               |

Fee: \$ 200.00

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☐ An extension for \_\_\_\_\_ months has already been secured, and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_

OR

- (b) ☐ Applicant believes that no extension of time is required. However, this is a conditional petition and authorization to pay the necessary fees to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

## TOTAL FEE(S) DUE

**WARNING:** The fee for continued examination under § 1.114 may not be deferred. 37 C.F.R. § 1.53(f).

7. The total fee(s) due is/are:

|   |                  |
|---|------------------|
| Continued Prosecution Fee (§ 1.17(e))                 | \$ <u>370.00</u> |
| Fee(s) for additional claims (if any) (§ 1.16(b)-(d)) | \$ _____         |
| Extension of time fee (if any) (§ 1.17(a)(1)-(4))     | \$ <u>200.00</u> |
| Total Fee(s) Due                                      | \$ <u>570.00</u> |

### PAYMENT OF FEE(S) DUE

8. Please pay the fee(s) for this continued examination application as follows:

☒ Check is attached for the sum of \$ 570.00

☐ Charge Account \_\_\_\_\_ the sum of \$ \_\_\_\_\_

☐ Charge Credit Card the sum of \$ \_\_\_\_\_

(Credit Card Payment Form (PTO-2038) attached)

Please charge any required additional fee(s) for § 1.17(e), § 1.16(b)-(d) and/or § 1.17(a)(1)-(4) to

☒ Account 18-1829

☐ Credit Card (Credit Card Payment Form (PTO-2038) attached).

### INVENTORSHIP

*NOTE: Any change of inventors must be via the procedure set forth in 37 CFR § 1.48. See Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.*

9. This application as amended names as inventors:

☒ the same inventors as previously designated for the claims.

☐ fewer than the inventors previously designated and a statement accompanies this request for the deletion of the name or names of the person or persons who are not inventors of the invention now being claimed.

☐ a person not named previously as an inventor and a petition under 37 C.F.R. § 1.48 is/has separately: ☐ being filed ☐ been filed

### DEFERRAL OF EXAMINATION

10. ☐ A request for deferral of examination accompanies this request for continued examination.

Reg. No.: 48,224

Tel. No.: ( 314 ) 727-5188

Customer No.: 27565

  
SIGNATURE OF PRACTITIONER

Joseph E. Zahner

(type or print name of practitioner)

Thompson Coburn LLP  
7733 Forsyth Blvd.

P.O. Address

Suite 1400  
St. Louis, MO 63105